

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

WENDT CORPORATION

And

SHOPMEN'S LOCAL UNION NO. 576

**Cases 03-CA-212225
03-CA-220998
03-CA-223594**

MOTION FOR LEAVE TO PRESENT SUPPLEMENTAL BRIEF

Counsel for the General Counsel respectfully seeks leave from the National Labor Relations Board (“the Board”) to present authority clarifying the General Counsel’s position on the violations found under *Total Security Management Illinois 1, LLC* (“*Total Security*”), 364 NLRB No. 106 (Aug. 26, 2016) and for conduct that was not alleged in the Complaint. The General Counsel in its statements, Answering Brief and Cross-Exceptions, to the Board did not urge the Board to uphold *Total Security* or find a violation for unalleged conduct, however, there is additional clarification on these issues that the General Counsel seeks to bring to the Board’s attention.

Accordingly, the General Counsel respectfully seeks leave to file the attached supplemental brief on these issues.

Dated at Buffalo, New York this 17th day of July, 2019.

Respectfully submitted,

/s/ **Jessica L. Cacaccio**

JESSICA L. CACACCIO
Counsel for the General Counsel
National Labor Relations Board, Region 3
130 South Elmwood Avenue, Suite 630
Buffalo, New York 14202

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

WENDT CORPORATION

And

SHOPMEN’S LOCAL UNION NO. 576

**Cases 03-CA-212225
03-CA-220998
03-CA-223594**

SUPPLEMENTAL BRIEF

The Administrative Law Judge in his decision (“ALJD”) found violations under *Total Security Management Illinois 1, LLC* (“*Total Security*”), 364 NLRB No. 106 (Aug. 26, 2016) and for unalleged conduct. The General Counsel in its prior submissions to the National Labor Relations Board (“the Board”), its Answer Brief and Cross-Exceptions, did not urge the Board to uphold the Board’s *Total Security* decision and offers this additional authority to clarify that it is seeking to overturn that decision. In addition, the General Counsel in its prior submissions did not take a position on the ALJ’s finding that Respondent violated Section 8(a)(3) of the Act by laying off employees and clarifies that it is not urging the Board to find a Section 8(a)(3) violation for this conduct.

In the instant matter, the General Counsel urges the Board adopt the rationale set forth in the General Counsel’s Answering Brief in *800 River Road Operating Company, LLC d/b/a CareOne at New Milford*, Case 22-CA-204545 (“CareOne Brief”) regarding the application of *Total Security*. Specifically, pages 23 to 37 of the CareOne Brief, accessible at <http://apps.nlr.gov/link/document.aspx/09031d4582b3fe14>, set forth the basis for overturning the decision.

In addition, the ALJ found Respondent violated Section 8(a)(3) of the Act by laying off employees. The Complaint alleged that the lay-offs violated Section 8(a)(5) but did not allege

that they violated Section 8(a)(3). Therefore, the ALJ found an unalleged violation.

Accordingly, the General Counsel is not urging the Board to adopt the Administrative Law

Judge's conclusions that Respondent violated Section 8(a)(3) of the Act by laying off employees.

Respectfully submitted,

/s/ **Jessica L. Cacaccio**

JESSICA L. CACACCIO
Counsel for the General Counsel
National Labor Relations Board, Region 3
130 South Elmwood Avenue, Suite 630
Buffalo, New York 14202